

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Vladimir Lemeshko,

Plaintiff,

v.

Alliance Health Networks, Inc.,

Defendant.

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Civil Action No.: _____

DEMAND FOR JURY TRIAL

COMPLAINT & JURY DEMAND

For this Complaint, the Plaintiff, Vladimir Lemeshko, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Vladimir Lemeshko ("Plaintiff"), is an adult individual residing in Oak Park, Michigan, and is a "person" as the term is defined by 47 U.S.C.A. § 153(39).
4. Defendant Alliance Health Networks, Inc. ("Alliance"), is a Utah business entity with an address of 9 Exchange Place, Suite 200, Salt Lake City, Utah 84111, and is a "person" as the term is defined by 47 U.S.C.A. § 153(39).

FACTS

5. Within the last year, Alliance placed calls to Plaintiff's cellular telephone, number 248-xxx-6609, in an attempt to solicit to Plaintiff its services.

6. At all times referenced herein, Alliance placed calls to Plaintiff's cellular telephone by using an automated telephone dialer system ("ATDS") and/or by using an artificial or prerecorded voice.

7. Plaintiff has no business relations with Alliance and never requested by an agreement or otherwise that he be contacted by Alliance.

8. Plaintiff never provided his cellular telephone number to Alliance and never provided his consent to Alliance to be contacted on his cellular telephone.

9. When Plaintiff answered calls from Alliance, he heard the sound of dial tones for several seconds before being connected to a live representative.

10. During the first conversation, Plaintiff advised Alliance that he was not interested in the services Alliance was offering and asked Alliance to cease calling him.

11. Alliance agreed to take Plaintiff's number out of its database and assured Plaintiff that the automated calls would stop.

12. Nonetheless, Alliance thereafter continued to place automated calls to Plaintiff's cellular phone.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.**

13. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. Without prior consent the Defendant contacted the Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

15. Defendant's Predictive Dialers have the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.

16. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

17. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. As a result of each of Defendant's negligent violations of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

19. As a result of each of Defendant's knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: April 24, 2014

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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